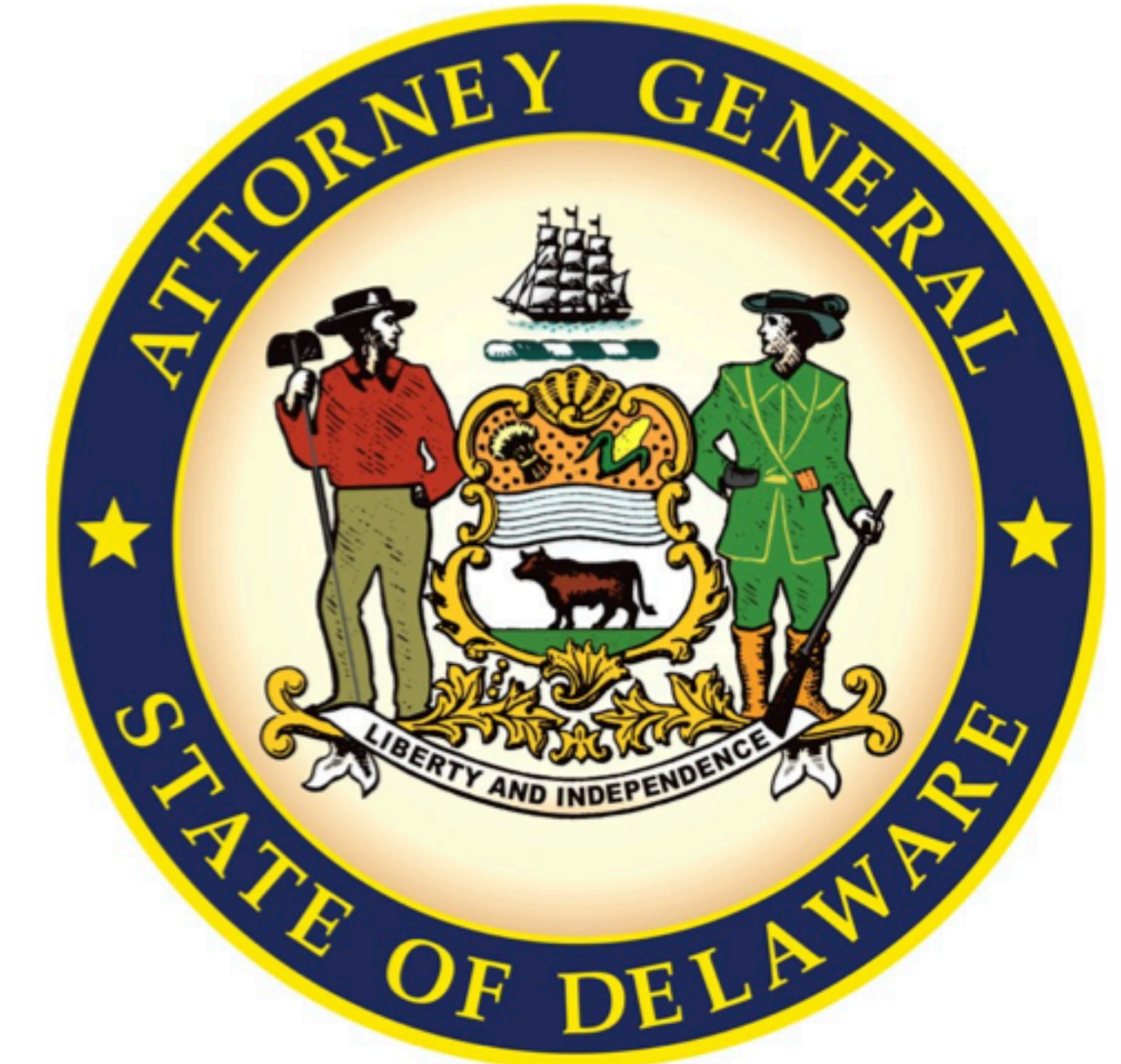


Delaware Department of Justice

Employee Rights Under the National Labor Relations Act

Delaware Department of Justice



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NOTE: This brochure is intended to be a quick reference guide. It is not legal advice, does not create an attorney-client relationship, and is not a substitute for legal advice based on any specific set of facts. This brochure provides a general overview of this subject matter. There are exceptions to the general rules referenced herein based on the specific facts and circumstances. For example, while it is generally true that picketers may not dissuade employees from going to work, picketers may lawfully dissuade employees and others from crossing a picket line. A consequence of that kind of action may result in the loss of certain protections under the NLRA or impose other limitations. Similarly, handbills engaging in certain actions may lose their protected status as non-picketers. The application of laws that protect picketing and handbilling is highly fact dependent. For these reasons, anyone considering such action is urged to seek legal counsel.

The Delaware Department of Justice has a duty to protect the rights of all Delawareans, including strong protections of First Amendment rights. While the DOJ can not provide individual legal advice, the Department also recognizes the importance and public value of Delawareans understanding their rights under the law.

The First Amendment to the U.S. Constitution, and the National Labor Relations Act (NLRA) grant workers certain rights. Inside this brochure you'll find information about those rights and contact information for the federal agency that investigates NLRA violations.

While this brochure is for informational purposes only and is not a substitute for specific legal advice — including restrictions that may be specific to certain locations, such as health care facilities — Attorney General Jennings believes strongly that our state is a stronger, more just place to live when all Delawareans are familiar with their rights. To that end, we hope you find this information helpful.

Kathleen Jennings
Attorney General

KNOW

What is the National Labor Relations Act (NLRA)?

The National Labor Relations Act (NLRA) is a federal law that grants employees the right to form or join unions; and engage in other protected concerted activity to address or improve work conditions. The NLRA applies to most private-sector employers. It does not apply to public-sector employees, agricultural and domestic workers, independent contractors, workers employed by a parent or spouse, employees covered by the Railway Labor Act, and supervisors. It protects employees from certain types of employer and union misconduct. This brochure gives you general information about your rights, and about the obligations of employers and unions under the NLRA.

Under the NLRA, you have the right to:

- Organize a union to negotiate with your employer concerning your wages, hours, and other terms and conditions of employment.
- Form, join or assist a union.
- Bargain collectively through representatives of employees' own choosing for a contract with your employer setting your wages, benefits, hours, and other working conditions.
- Talk about your wages, benefits, working conditions, and other terms of your employment with your coworkers, the public, the media, or a union (but you should not make statements that are deliberately or maliciously false or engage in conduct that is extremely profane, vulgar, or disruptive to workplace order).
- Take action with one or more co-workers to improve your working conditions by, among other means, raising work-related complaints directly with your employer or with a government agency, and seeking help from a union.
- Strike and picket, depending on the purpose or means of the strike or the picketing.
- Choose not to do any of these activities, including joining or remaining a member of a union.

YOUR

Under the NLRA, it is illegal for your employer to:

- Prohibit you from talking about or soliciting for a union during non-work time, such as before or after work or during break times; or from distributing union literature during non-work time, in non-work areas, such as parking lots or break rooms.
- Prohibit you from talking to others about your wages, working conditions, or a union during non-working time, such as before or after work or during break times.
- Question you about your union support or activities in a manner that discourages you from engaging in that activity.
- Fire, demote, or transfer you, or reduce your hours or change your shift, or otherwise take adverse action against you, or threaten to take any of these actions, because you join or support a union, or because you engage in concerted activity for mutual aid and protection, or because you choose not to engage in any such activity.
- Threaten to close your workplace if workers choose a union to represent them.
- Promise or grant promotions, pay raises, or other benefits to discourage or encourage union support.
- Prohibit you from wearing union hats, buttons, t-shirts, and pins in the workplace except under special circumstances.
- Spy on or videotape peaceful union activities and gatherings or pretend to do so.

Contact the National Labor Relations Board (NLRB), the Federal agency that investigates and resolves complaints under the NLRA, if you have any questions about specific rights that may apply in your particular workplace.

RIGHTS

Under the NLRA, it is illegal for a union or for the union that represents you in bargaining with your employer to:

- Threaten or coerce you in order to gain your support for the union.
- Refuse to process a grievance because you have criticized union officials or because you are not a member of the union.
- Use or maintain discriminatory standards or procedures in making job referrals from a hiring hall.
- Cause or attempt to cause an employer to discriminate against you because of your union-related activity.
- Take adverse action against you because you have not joined or do not support the union.

If you believe an employer or a union has violated your rights, you should contact the NLRB promptly. You will be able to speak with an NLRB agent and ask about possible violations without your employer, union, or anyone else being told about your inquiry. If you choose, you may file an unfair labor practice charge saying that an employer or a union has violated your rights under the NLRA, or the rights of other workers. A copy of this charge will be provided to the employer or the union which is the subject of the charge. The NLRB cannot investigate allegations without a charge being filed.

You may file a charge by visiting a field office, by mail, by telephone, or electronically through the NLRB public website:

<https://apps.nlr.gov/chargeandpetition/#/>. If you need help, a Board agent will help you fill out a charge form. There is no cost to you to file an unfair labor practice charge, nor do you need a lawyer.

You can find the nearest regional NLRB office on the Agency's website: www.nlr.gov.

You can also contact the NLRB by calling toll-free: 1-866-667-NLRB (6572) or (TTY) 1-866-315-NLRB (1-866-315-6572) for hearing impaired.